

Exhibit 7

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

ECOFACTOR, INC., Plaintiff, v. ECOBEE, INC., Defendant.	Case No.: 6:20-cv-00078-ADA JURY TRIAL DEMANDED
ECOFACTOR, INC., Plaintiff, v. ECOBEE, INC., Defendant.	Case No.: 6:21-cv-00428-ADA JURY TRIAL DEMANDED <u>LEAD CASE</u>

**OMNIBUS ORDER REGARDING PRETRIAL MOTIONS
(Dkt. Nos. 65, 66, 67, 68, 69, 70, 71, AND 73)**

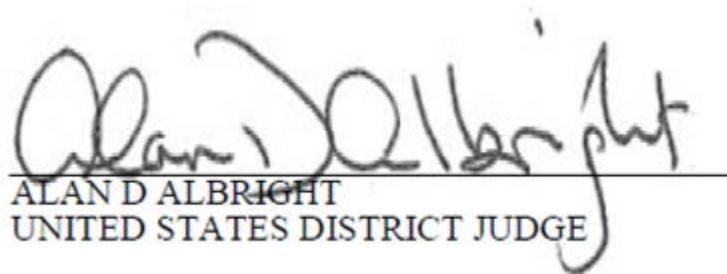
The Court, having considered the pretrial motions filed by Plaintiff EcoFactor, Inc. (“EcoFactor”) and Defendant ecobee, Inc. (“ecobee”) (Dkt. Nos. 65, 66, 67, 68, 69, 70, 71, 73) and the parties’ arguments at the May 11, 2023 Pretrial Conference (Dkt. No. 187), rules as follows:

<u>Motion</u>	<u>Ruling</u>
EcoFactor’s Motion to Exclude Expert Opinions of ecobee’s Damages Expert Michele Riley (Dkt. No. 65)	Undecided until the Court hears the evidence at trial.
EcoFactor’s Motion for Summary Judgment of Defendant ecobee’s Affirmative Defenses (Dkt. No. 66)	Granted as to obviousness-type double patenting; 35 U.S.C. § 101; enablement under 35 U.S.C. § 112; indefiniteness under 35 U.S.C. § 112; unenforceability under 35 U.S.C. § 116;

<u>Motion</u>	<u>Ruling</u>
	<p>prosecution history estoppel and disclaimer; lack of standing; prosecution laches; collateral estoppel; res judicata; disclaimer; Kessler doctrine</p> <p>Denied as to unclean hands; waiver; laches; patent misuse.</p>
ecobee's Daubert Motion to Exclude Testimony of Plaintiff's Damages Expert, Mr. David Kennedy (Dkt. No. 67)	Denied.
EcoFactor's Motion to Exclude Expert Opinions of Brian D'Andrade and Motion for Partial Summary Judgment (Dkt. No. 68)	Denied.
EcoFactor's Motion to Exclude Expert Opinions of Defendant ecobee's Experts Shukri Souris and Melissa Bennis Regarding Non-Infringing Alternatives (Dkt. No. 69)	Denied.
ecobee's Motion to Strike Plaintiff's New, Undisclosed and Untimely Expert Opinions Concerning Infringement and Validity (Dkt. No. 70)	Granted as to Mr. de la Iglesia's opinion concerning the 100 patent's HVAC minimum off times; Denied as to the remainder.
ecobee's Motion for Partial Summary Judgment (Dkt. No. 71)	Denied as to the portion of motion relating to 35 U.S.C. § 101 grounds. Denied as moot as to the remaining grounds due to Ecofactor dropping them, except that EcoFactor may pursue claims of post-suit induced infringement solely on the '890 Patent.
EcoFactor's Motion to Exclude Expert Opinions of ecobee's Damages Expert Melissa Bennis (Dkt. No. 73)	<p>Granted as to opinions where Ms. Bennis assumes patents have equal value.</p> <p>Granted as to the four challenged ecobee licenses.</p> <p>Granted as to the issue of EcoFactor's licensees' international revenues.</p>

<u>Motion</u>	<u>Ruling</u>
	<p>Granted as to the valuation email, unless the email is admitted into evidence.</p> <p>As to Ms. Bennis's opinions regarding litigation between the parties not involving the patents asserted here, the Court may permit Ms. Bennis to testify about ITC litigation outcomes if EcoFactor's damages expert opens the door on this issue and ecobee first approaches the bench to obtain Court approval to introduce such testimony.</p>

SIGNED this 1st day of June, 2023.



ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE